

1 Adopt 2 Cal. Code Regs. Section 18413 to read:

2 **§ 18413. Reporting Independent Expenditures by Eligible 501(c)(3) or 501(c)(4)**
3 **Organizations.**

4 (a) Application. This regulation provides an event-based reporting alternative for
5 an eligible 501(c)(3) or 501(c)(4) organization that makes occasional independent
6 expenditures from its general treasury to support or oppose a ballot measure in California.
7 This reporting option does not apply for contributions or independent expenditures made
8 by a 501(c)(3) or 501(c)(4) organization to support or oppose a candidate in a California
9 election-, **or to contributions made to support or oppose a ballot measure in**
10 **California.**

11 (b) Definitions. For purposes of this regulation, “Eligible 501(c)(3) or 501(c)(4)
12 organization” means an organization to which all of the following apply:

13 (1) The organization has received either a 501(c)(3) or 501(c)(4) tax-exempt
14 status from the Internal Revenue Service and is operating under either Section 501(c)(3)
15 or 501(c)(4) of the Internal Revenue Code; and if incorporated in the State of California,
16 has received a tax-exempt determination from the California Franchise Tax Board under
17 California Revenue and Taxation Code Section 23701d or 23701f, or if incorporated in a
18 state other than California, has received the required tax-exempt determination under the
19 laws of the state of incorporation.

20 (2) The organization is multipurpose and occasionally makes independent
21 expenditures using donated funds from its general treasury to support or oppose ballot
22 measures in California. “Occasionally makes independent expenditures” means either of
23 the following:

1 (A) Expenditures from the organization's general treasury totaling, in the
2 aggregate in a calendar year, less than \$500,000 ~~on behalf of~~ to support or oppose four
3 or fewer state ballot measures.

4 (B) Expenditures from the organization's general treasury totaling, in the
5 aggregate in a calendar year, less than \$50,000 ~~on behalf of~~ to support or oppose one or
6 more local ballot measures.

7 (c) Reporting Options. Under Regulation 18215(b)(1), an ~~An~~ eligible 501(c)(3)
8 or 501(c)(4) organization that ~~triggers the "one bite of the apple" test in Regulation~~
9 ~~18215(b)(1), and subsequently~~ makes an independent expenditure from its general
10 treasury is required to identify the donors of funds utilized to make independent
11 expenditures on ballot measures in California, if the organization has previously made
12 independent expenditures or contributions from its general treasury totaling at least
13 one thousand dollars (\$1,000) during the same calendar year, or during any of the
14 four calendar years immediately preceding that year. An eligible 501(c)(3) or
15 501(c)(4) organization shall either (1) report ~~these the~~ independent ~~expenditures~~
16 expenditure as a recipient committee or (2) elect to report the independent ~~expenditures~~
17 expenditure under the event-based reporting rules set forth in subdivision (d) without
18 designating a treasurer, filing a statement of organization, periodic recipient committee
19 reports on Form 460, or a statement of termination.

20 (d) Event-Based Independent Expenditure Reporting.

21 (1) When to File. An eligible 501(c)(3) or 501(c)(4) organization that elects
22 event-based reporting shall report an independent expenditure of \$1,000 or more made
23 from its general treasury to support or oppose the qualification or passage of a ballot

1 measure on an Independent Expenditure Report (Form 496) filed within 10 business days
2 after making the independent expenditure. However, if the eligible **501(c)(3) or**
3 501(c)(4) organization makes the independent expenditure during the 90 days preceding a
4 state election or 16 days preceding a local election in which the measure appears on the
5 ballot, it shall file the Independent Expenditure Report within 24 hours after making the
6 independent expenditure.

7 (2) Report Contents.

8 (A) The Form 496 report shall list the eligible **501(c)(3) or** 501(c)(4)
9 organization's full name and street address, and in addition, shall include the designation
10 "**Eligible 501(c)(3) IE Report**" or "Eligible 501(c)(4) IE Report" in the "Name of Filer"
11 field, indicating the organization's election to use event-based independent expenditure
12 reporting. The report shall include the name of a current officer, director, or trustee of
13 the **501(c)(3) or** 501(c)(4) organization listed on the organization's Internal Revenue
14 Service Form 990, who shall be responsible for the accuracy and completeness of the
15 report.

16 (B) The Form 496 report shall contain the information about the independent
17 expenditure required by the form concerning the date, amount, and description of the
18 goods or services for which the expenditure was made. ~~The report~~ **The report and** shall identify the
19 measure the independent expenditure is supporting or opposing as specified in Section
20 84204.5(a)(2).

21 (C) The Form 496 report shall identify the donors whose payments of \$100 or
22 more to the general treasury were used to pay for the independent expenditure. If only a
23 part of a donor's payment to the organization was used to make independent

1 expenditures, the payment may be apportioned for reporting purposes. The organization
2 may use any reasonable method that accurately reflects the sources of funds for the
3 expenditure, such as apportioning the donor's payments, or using the last in, first out,
4 accounting method. Once the organization selects an accounting method, it must
5 continue to use the same method. Donor payments to the organization that may be
6 subject to itemized disclosure are those made after ~~the date of the organization's "first~~
7 ~~bite of the apple" under Regulation 18215(b)(1);~~ the date of the organization's first
8 expenditure or contribution of \$1,000 or more pursuant to Regulation 18215(b)(1).
9 ~~however~~ However, if the donor knows his or her payment to the organization will be
10 used for ballot measure independent expenditures the payment shall be disclosed as
11 contributed by that donor.

12 (D) The organization shall maintain the records necessary to document the donor
13 contributions and the independent expenditures reported.

14 (3) Where to File. For an independent expenditure in connection with a state
15 measure, the organization shall file a Form 496 report electronically with the California
16 Secretary of State. For an independent expenditure in connection with a local measure,
17 the organization shall file a Form 496 report electronically with the California Secretary
18 of State, and shall also file a copy of the report with the clerk of the city or county in
19 which the measure is being voted on.

20 (e) A 501(c)(3) or 501(c)(4) organization that is not an eligible 501(c)(3) or
21 501(c)(4) organization but otherwise qualifies as a recipient committee under Title 9
22 (commencing with Section 81000) of the Government Code shall report as a recipient
23 committee.

- 1 Note: Authority cited: Section 83112, Government Code.
- 2 Reference: Sections 82013, Section 84204, Section 85500, Government Code.